

## JUDICIARY

DATE 1-24-07

[illegible]



## SENATE STANDING COMMITTEE REPORT

January 25, 2007

Page 1 of 4

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 125** (first reading copy -- white) do pass as amended.

Signed: \_\_\_\_\_

*Senator Jesse Laslovich, Chair*

And, that such amendments read:

1. Title, line 9.

**Strike:** "PROVIDING SENTENCING ALTERNATIVES;"

2. Title, line 10 through line 12.

**Following:** "CIRCUMSTANCES;" on line 10

**Strike:** remainder of line 10 through "SERVICES;" on line 12

3. Title, line 12.

**Strike:** "3-5-901, 46-14-202,"

4. Title, line 13.

**Following:** "AND"

**Strike:** "46-14-312,"

**Insert:** "53-21-127,"

5. Page 1, line 17 through page 4, line 22.

**Strike:** section 1 through section 2 in their entirety

**Renumber:** subsequent sections

6. Page 7, line 9 through line 20.

**Following:** "medication." on line 9

**Strike:** remainder of line 9 through "administered." on line 20

7. Page 7, line 21.

**Strike:** "(c)"

**Insert:** "(b)"

8. Page 8, line 29 through line 30.

**Committee Vote:**

Yes 12, No 0

Fiscal Note Required \_\_\_\_\_

*Kf*

170912SC.spb

**Following:** "medication" on line 29

**Strike:** remainder of line 29 through "treatment" on line 30

**Insert:** "facilitates effective treatment and, considering less intrusive alternatives, is necessary to protect the safety of the defendant or others"

9. Page 10, line 13 through line 14.

**Following:** "medication" on line 13

**Strike:** remainder of line 13 through "treatment" on line 14

**Insert:** "facilitates effective treatment and, considering less intrusive alternatives, is necessary to protect the safety of the defendant or others"

10. Page 10, line 20 through page 13, line 2.

**Strike:** section 6 in its entirety

11. Page 13, line 3.

**Following:** line 2

**Insert:** "Section 4. Section 53-21-127, MCA, is amended to read:

"53-21-127. **Posttrial disposition.** (1) If, upon trial, it is determined that the respondent is not suffering from a mental disorder or does not require commitment within the meaning of this part, the respondent must be discharged and the petition dismissed.

(2) If it is determined that the respondent is suffering from a mental disorder and requires commitment within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing must be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent.

(3) At the conclusion of the disposition hearing and pursuant to the provisions in subsection (7), the court shall:

(a) subject to the provisions of 53-21-193, commit the respondent to the state hospital or to a behavioral health inpatient facility for a period of not more than 3 months;

(b) commit the respondent to a community facility or program or to any appropriate course of treatment, which may include housing or residential requirements or conditions as provided in 53-21-149, for a period of:

(i) not more than 3 months; or

(ii) not more than 6 months in order to provide the respondent with a less restrictive commitment in the community rather than a more restrictive placement in the state hospital if a respondent has been previously involuntarily committed for inpatient treatment in a mental health facility and the court determines that the admission of evidence of the previous involuntary commitment is relevant to the criterion of predictability, as provided in 53-21-126(1)(d), and outweighs the

prejudicial effect of its admission, as provided in 53-21-190; or  
(c) commit the respondent to the Montana mental health nursing care center for a period of not more than 3 months if the following conditions are met:

(i) the respondent meets the admission criteria of the center as described in 53-21-411 and established in administrative rules of the department; and

(ii) the superintendent of the center has issued a written authorization specifying a date and time for admission.

(4) Except as provided in subsection (3)(b)(ii), a treatment ordered pursuant to this section may not affect the respondent's custody or course of treatment for a period of more than 3 months.

(5) In determining which of the alternatives in subsection (3) to order, the court shall choose the least restrictive alternatives necessary to protect the respondent and the public and to permit effective treatment.

(6) The court may authorize the chief medical officer of a facility or a physician designated by the court to administer appropriate medication involuntarily if the court finds that involuntary medication is necessary to protect the respondent or the public or to facilitate effective treatment facilitates effective treatment and, considering less intrusive alternatives, is necessary to protect the safety of the patient or others.

Medication may not be involuntarily administered to a patient unless the chief medical officer of the facility or a physician designated by the court approves it prior to the beginning of the involuntary administration and unless, if possible, a medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review is not possible, within 5 working days after the beginning of the involuntary administration. The medication review committee must include at least one person who is not an employee of the facility or program. The patient and the patient's attorney or advocate, if the patient has one, must receive adequate written notice of the date, time, and place of the review and must be allowed to appear and give testimony and evidence. The involuntary administration of medication must be again reviewed by the committee 14 days and 90 days after the beginning of the involuntary administration if medication is still being involuntarily administered. The mental disabilities board of visitors and the director of the department of public health and human services must be fully informed of the matter within 5 working days after the beginning of the involuntary administration. The director shall report to the governor on an annual basis.

(7) Satisfaction of any one of the criteria listed in 53-21-126(1) justifies commitment pursuant to this chapter. However, if the court relies solely upon the criterion provided in 53-21-126(1)(d), the court may require commitment only to a community facility or program or an appropriate course of treatment, as provided in subsection (3)(b), and may not require

commitment at the state hospital, a behavioral health inpatient facility, or the Montana mental health nursing care center.

(8) In ordering commitment pursuant to this section, the court shall make the following findings of fact:

(a) a detailed statement of the facts upon which the court found the respondent to be suffering from a mental disorder and requiring commitment;

(b) the alternatives for treatment that were considered;

(c) the alternatives available for treatment of the respondent;

(d) the reason that any treatment alternatives were determined to be unsuitable for the respondent;

(e) the name of the facility, program, or individual to be responsible for the management and supervision of the respondent's treatment;

(f) if the order includes a requirement for inpatient treatment, the reason inpatient treatment was chosen from among other alternatives;

(g) if the order commits the respondent to the Montana mental health nursing care center, a finding that the respondent meets the admission criteria of the center and that the superintendent of the center has issued a written authorization specifying a date and time for admission; and

(h) if the order includes involuntary medication, the reason involuntary medication was chosen from among other alternatives.""

- END -



## SENATE STANDING COMMITTEE REPORT

January 24, 2007

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 282** (first reading copy -- white) **do pass.**


Signed: 

*Senator Jesse Laslovich, Chair*

- END -

**Committee Vote:**

**Yes 12, No 0**

Fiscal Note Required ☐ 

161529SC.ssc



## SENATE STANDING COMMITTEE REPORT

January 24, 2007

Page 1 of 3

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 228** (first reading copy - white) do pass as amended.

Signed: 

*Senator Jesse Lastovich, Chair*

And, that such amendments read:

1. Title, line 4.

**Following:** "IN"

**Strike:** "THE"

**Insert:** "A"

2. Title, line 5.

**Following:** "REHABILITATION"

**Strike:** "AND IMPROVEMENT"

3. Title, line 6 through line 7.

**Following:** "OFFENSES" on line 6

**Strike:** remainder of line 6 through "PARTICIPATION" on line 7

**Insert:** "; ALLOWING A JUDGE TO ORDER AN OFFENDER TO PARTICIPATE"

4. Title, line 7.

**Following:** "IN"

**Strike:** "THE"

**Insert:** "A"

**Following:** "REHABILITATION"

**Strike:** "AND IMPROVEMENT"

5. Title, line 8.

**Following:** "IN"

**Strike:** "THE"

**Insert:** "A"

6. Title, line 9.

**Following:** "REHABILITATION"

**Committee Vote:**

**Yes 12, No 0**

**Fiscal Note Required** \_\_\_\_\_

161530SC.ssc

*KJ*

**Strike:** "AND IMPROVEMENT"

**Following:** "SECTIONS"

**Strike:** "61-2-302,"

7. Page 1, line 14 through page 3, line 5.

**Strike:** section 1 in its entirety

**Renumber:** subsequent sections

8. Page 3, line 27.

**Following:** "(6)"

**Strike:** "A"

**Insert:** "Unless otherwise provided by law, a"

**Following:** "for"

**Strike:** "the first"

**Insert:** "any"

**Following:** "misdemeanor"

**Insert:** "or traffic"

9. Page 3, line 28.

**Following:** "an offender"

**Strike:** ", conditioned upon the offender's participation"

**Insert:** ". The judge may order the offender to participate"

**Following:** "in"

**Strike:** "the"

**Insert:** "a"

**Following:** "rehabilitation"

**Strike:** "and improvement"

10. Page 3, line 29.

**Following:** line 28

**Strike:** "established under 61-2-302"

**Insert:** "approved by the department under 61-5-219"

11. Page 4, line 30.

**Strike:** "4"

**Insert:** "3"

12. Page 6, line 6 through line 7.

**Following:** "if the" on line 6

**Strike:** "person" on line 6 through "61-2-302" on line 7

**Insert:** "department receives a certificate from a driver  
rehabilitation program approved under 61-5-219 certifying  
that the person successfully completed the program. The  
certificate must be submitted no later than 30 days after  
the day on which the program was completed"

13. Page 6, line 8 through line 9.

**Following:** "period" on line 8

**Strike:** remainder of line 8 through "period" on line 9



14. Page 6, line 15.  
**Following:** "section"  
**Strike:** "4(1)(m)"  
**Insert:** "3(1)(m)"

15. Page 6, line 21.  
**Strike:** "4"  
**Insert:** "3"

16. Page 6, line 22.  
**Strike:** "4"  
**Insert:** "3"

- END -



## SENATE STANDING COMMITTEE REPORT

January 24, 2007

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 227** (first reading copy -- white) do pass as amended.

Signed:

*Senator Jesse Laslovich, Chair*

And, that such amendments read:

1. Page 4, line 3.

Following: "business."

Insert: "Any levy on state funds is subordinate to the department of revenue's right of offset for delinquent taxes or other debt as provided in 15-30-149, 15-30-310, 15-31-404, 15-36-315, 15-39-106, 15-39-109, 15-68-516, 15-70-110, 15-72-113, Title 17, chapter 4, and 39-51-1307."

- END -

Committee Vote:

Yes 12, No 0

Fiscal Note Required

*KJ*

161531SC.ssc



## SENATE STANDING COMMITTEE REPORT

January 25, 2007

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 143** (first reading copy -- white) do pass as amended.

Signed:

*(Signature)*  
Senator Jesse Dasovich, Chair

And, that such amendments read:

1. Page 4, line 22.

**Following:** "sailboat"

**Insert:** "underway"

2. Page 7, line 10 through line 12.

**Following:** "or other drug" on line 10

**Strike:** remainder of line 10 through "sailboat" on line 12

3. Page 9, line 2 through line 3.

**Strike:** subsection (iii) in its entirety

**Renumber:** subsequent subsections

- END -

**Committee Vote:**

Yes 12, No 0

Fiscal Note Required — *KJ*

170915SC.spb

MONTANA STATE SENATE  
2007 LEGISLATURE

JUDICIARY

ROLL CALL VOTE

DATE 1-24-07 BILL NO. 227 NUMBER \_\_\_\_\_

MOTION: amendment

NAME	AYE	NO
SEN. LYNDIA MOSS (D)	✓	
SEN. DAN McGEE (R)	✓	
SEN. CAROL WILLIAMS (D)		✓
SEN. CAROL JUNEAU (D)		✓
SEN. GERALD PEASE (D)		✓
SEN. JIM SHOCKLEY (R)		✓
SEN. AUBYN CURTISS (R)		✓
SEN. JERRY O'NEIL (R)		✓
SEN. LARRY JENT (D)		✓
SEN. GARY PERRY (R)		✓
SEN. DAVID WANZENRIED (D)		✓
SEN. JESSE LASLOVICH (D) CHAIRMAN	✓	
	3	9
VALENCIA LANE, LSD		
CAROL ANDERSEN, COMMITTEE SECRETARY		

MONTANA STATE SENATE  
2007 LEGISLATURE

JUDICIARY

ROLL CALL VOTE

DATE 1-24-07 BILL NO. SB 143 NUMBER           

MOTION: amendment as amended

NAME	AYE	NO
SEN. LYNDA MOSS (D)		✓
SEN. DAN McGEE (R)	✓	
SEN. CAROL WILLIAMS (D)	✓	
SEN. CAROL JUNEAU (D)		✓
SEN. GERALD PEASE (D)		✓
SEN. JIM SHOCKLEY (R)	✓	
SEN. AUBYN CURTISS (R)	✓	
SEN. JERRY O'NEIL (R)	✓	
SEN. LARRY JENT (D)		✓
SEN. GARY PERRY (R)		✓
SEN. DAVID WANZENRIED (D)	✓	
SEN. JESSE LASLOVICH (D) CHAIRMAN	✓	
VALENCIA LANE, LSD		
CAROL ANDERSEN, COMMITTEE SECRETARY	7	5

# SENATE PROXY FORM

According to Senate Rule 30-70 (13) (f), a committee member may vote by proxy using a standard form.

## PROXY VOTE

I, the undersigned, hereby authorize Senator Noss

to vote my proxy on any issue before the Senate \_\_\_\_\_

\_\_\_\_\_ Committee

held on \_\_\_\_\_

SB 125 amendments Y  
amend m Y > Y

SB 143 amendments 2007 Y  
amendment Y Y

SENATOR  
STATE OF MONTANA

SB 282 Y  
SB 228 amendments Y Y

222 amendments Y  
amend N Y

# SENATE PROXY FORM

According to Senate Rule 30-70 ( 13) ( f ) , a committee member may vote by proxy using a standard form.

## PROXY VOTE

I, the undersigned, hereby authorize Senator Men

to vote my proxy on any issue before the Senate \_\_\_\_\_

\_\_\_\_\_ Committee

held on \_\_\_\_\_, 2007.

SB 125 amended Y  
Cmndr Y Y

SB 282 Y  
SB 228 amended Y  
Y

Carol Williams  
SENATOR  
STATE OF MONTANA

227  
amend Y  
Cmnd N



## SENATE PROXY FORM

According to Senate Rule 30-70 (13) (f), a committee member may vote by proxy using a standard form.

### PROXY VOTE

I, the undersigned, hereby authorize Senator Moss

to vote my proxy on any issue before the Senate \_\_\_\_\_

\_\_\_\_\_ Committee

held on \_\_\_\_\_, 2007.

*Amendment yes  
SJ 2 yes*

*144 total - yes*

*Carol Williamson*

SENATOR

STATE OF MONTANA



## SENATE PROXY FORM

According to Senate Rule 30-70 ( 13) ( f ) , a committee member may vote by proxy using a standard form.

### PROXY VOTE

I, the undersigned, hereby authorize Senator MOSS

to vote my proxy on any issue before the Senate JANUARY

\_\_\_\_\_ Committee

held on \_\_\_\_\_, 2007.

SI 2 *Amendment yes*  
*yes*  
144 *table*  
*yes*

CONZONER  
SENATOR  
STATE OF MONTANA

## SENATE PROXY FORM

According to Senate Rule 30-70 ( 13) ( f ) , a committee member may vote by proxy using a standard form.

### PROXY VOTE

I, the undersigned, hereby authorize Senator Mo SS


to vote my proxy on any issue before the Senate \_\_\_\_\_

\_\_\_\_\_ Committee

held on \_\_\_\_\_, 2007.

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SJ 2

  
SENATOR  
STATE OF MONTANA

**MONTANA STATE SENATE  
2007 LEGISLATURE**

**VISITOR REGISTER**

**JUDICIARY**

**DATE** January 24, 2007

**BILLS BEING HEARD TODAY** \_\_\_\_\_

**PLEASE PRINT**

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Mike Mahoney	846-1350	BOC	SB277		
Nancy Schupp	570-4105	MT Farm Bureau	SB 41	X	
Pat Torgerson	480-5154	WIEF <sup>Women Involved</sup> <sup>in Farm Economics</sup>	SB 41	X	
Gloria Hermanson	448-2334	MSOTA <sup>MT SEX OFF TREATMENT</sup> <sup>ASSOC</sup>	SB277	X	
Geoff Floss	442-4516	MT Telecom Assn	SB282	✓	
Frank Cote	443-9070	MCIRA, FUMIC	SB283		X
<del>Steve Fisher</del>	<del>438-8788</del>	<del>MT State Bar</del>	<del>SB41</del>		
Riley Johnson	443-3797	NIFB	SB41	X	
Larry Hibberd	760-770 6925	PCIAA	SB283		X
Al Smith	939-3124	MTWA	SB41	X	
Jacqueline Benmark	2-0230	AIA	SB283		X
RACHEL ROBERTS	550-1397	Montana Family Foundation	SB 41	X	
Dwight Easton	240-5010	Farmers Int Group of Co	SB283		X
Jim Smith	743-1570	Sheriffs & County Atty	SB 277		X
" "	" "	" "	SB282	X	
Glenn Opper	442-5380	MAR	SB 41		X
CRAIG THOMAS	846-1404	BOPP	SB277		
Alec Hansen	442-8765	MLCT	SB-41	WFO	
Robert Ward	443-6025	Enterprise Pub Acn	SB 283		X
Brucy Pearce	442-2500	MT A-L P.C.s	SB 283	X	X
Larry Cribber		PCFAA	SB 283		X

**PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY**

**PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY**

*Jud.*



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2009 Biennium

Bill # SB0277

Title: Address level one sex offenders in prison

Primary Sponsor: Laible, Rick

Status: As Introduced

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input type="checkbox"/> Needs to be included in HB 2  | <input type="checkbox"/> Technical Concerns              |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### Description of Fiscal Impact:

This bill would provide for mandatory parole of Level 1 sex offenders who meet certain criteria.

### FISCAL ANALYSIS

#### Assumptions:

1. There will be approximately one offender per year eligible for mandatory parole based on Level 1 sex offenders incarcerated on one felony offense however, because of the number of criteria required of an offender to qualify for mandatory parole it is unlikely that this will occur.
2. The average time to parole for Level 1 sex offenders is 3 years. This bill has retroactive applicability which, based on average time to parole, would increase the number of eligible offenders in the first year to four. It is unknown at this time if any of these offenders would be paroled earlier. This assumption is based on criteria such as bill has more stringent guidelines for clear conduct than the Board of Pardons and Parole currently has (6 months vs. 4 months).
3. General fund cost for the incarceration of a male inmate is approximately \$27,696 per year and the cost of incarceration of a female inmate is approximately \$29,178 per year. Cost would be slightly lower if convicted felons were placed on Intensive Supervision at approximately \$2,789 per year and probation would be approximately \$1,464 per year.

Sponsor's Initials

Date

Budget Director's Initials

Date